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RESEARCH

A National Portrait of Domestic Violence Courts

BY MELISSA LABRIOLA, SARAH BRADLEY, CHRIS S. O'SULLIVAN, MICHAEL
REMPER AND SAMANTHA MOORE

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The opinions, findings, and conclusions or recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the U.S. Department of Justice. For correspondence, please contact Melissa Labriola, Center for Court Innovation, 520 8th Avenue, New York, NY 10018 (mlabriol@courts.state.ny.us).

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Executive Summary

A growing number of criminal courts nationwide handle domestic violence cases on separate calendars, termed domestic violence courts. There are now 208 confirmed domestic violence courts across the U.S. (Center for Court Innovation 2009). More than 150 similar projects have been established internationally. Some domestic violence courts emerged in the context of the broader “problem-solving court” movement and share characteristics with other specialized courts, such as separate dockets and specially trained judges. However, the origins of domestic violence courts are also distinct, growing out of the increased attention afforded domestic violence matters by the justice system over the past 30 years.

With funding from the National Institute of Justice, this study explores how criminal domestic violence courts have evolved, their rationale, and how their operations vary across the U.S. This study does not test whether domestic violence courts reduce recidivism, protect victims, or achieve other specific effects – although we provide a thorough literature review on these points. Rather, our aim is to present a comprehensive national portrait of the field as it exists today, laying the groundwork for future information exchange and research.

Our results point to strong national convergence around the fundamental domestic violence court goals of victim safety and offender accountability. Yet, the study revealed wide variations in the policies and protocols that different courts have implemented to achieve these goals. We also identified other goals that did not achieve such high levels of agreement, including efficiency of case processing, correct application of state statutes, and offender rehabilitation. Several relationships were found that suggest associations between how courts prioritize their goals, the state in which the court is located, and the presence of statutory requirements, on the one hand, and specific court policies on the other hand. Since policies varied widely, domestic violence courts do not appear to have a single “model” to inform their operations. It is not the role of this report to posit that they should. This report simply provides an account of the current field, as a starting point for the development of proposals on how that field might change or grow.

Research Design

The study focused on *criminal* domestic violence courts only. We defined them as courts that handle domestic violence cases on a separate calendar or assign domestic violence cases to one or more dedicated judges or judicial officers. A mixed methods design was implemented to achieve both scope and depth of understanding. The study unfolded in four steps, with the results of each step informing the next:

- Court Compendium: Utilizing a variety of investigative methods, we developed a comprehensive list of criminal domestic violence courts nationwide. The compendium is a separate document (Center for Court Innovation 2009) that includes court names and addresses organized by state. Following publication, this list may be used by domestic violence courts to network with other courts in their region.

- Site Visits: We visited three domestic violence courts in each of five states (California, Florida, Illinois, New York, and Washington) to develop in-depth information on 15 courts using semi-structured interviews and structured courtroom observations. Interviews were conducted with more than 120 stakeholders altogether, primarily judges, court administrators, prosecutors, and victim advocates, but also defense attorneys, probation officers, batterer program administrators and law enforcement officers.
- National Surveys: We administered a survey to all potentially qualifying courts in the national compendium and a survey of prosecutors linked to each court. Response rates were 56% for the court and 44% for the prosecutor surveys.
- Phone Interviews: We conducted phone interviews with a subsample of court survey respondents to explore the meaning of their responses to particular questions and to obtain additional qualitative data on court goals, operations, and challenges.

Ultimately, the research followed an iterative design through which our initial compendium functioned as our survey sample, and survey responses informed revision of the compendium. Although the survey was sent to 338 *potential* domestic violence courts, survey responses indicated that not all of these courts met our minimum criteria. Accordingly, the final compendium includes information on 208 confirmed domestic violence courts – courts that affirmed their status in their survey responses or that we later independently determined to have a specialized domestic violence calendar or dedicated judge. We found that the majority are in New York (63) and California (34). Other states with a higher-than-average number of domestic violence courts were Florida (14), Michigan (13) and North Carolina (11). The remaining 74 courts were distributed across 27 other states and Guam. Eighteen states have no domestic violence courts that we could identify.

Major Findings

We report major findings in four domains: (1) domestic violence court goals, (2) victim services and safety; (3) offender assessments and programs, and (4) compliance monitoring. Notable findings that did not fit into one of these categories are highlighted at the end of this summary.

1. Domestic Violence Court Goals

- Victim Safety: Most court survey respondents (83%) rated increasing victim safety as “extremely important.” In site visits, stakeholders variously linked this goal to services for victims, orders of protection, and safe victim waiting areas in the courthouse.
- Offender Accountability: Nearly four-fifths of court respondents (79%) rated holding offenders accountable for illegal behavior as “extremely important.” In interviews on our site visits, stakeholders most often expressed that this goal was achieved through offender supervision, batterer program mandates, and efforts to increase offender compliance with protective orders. Stakeholders did not usually discuss severity of sentencing as a means of holding offenders accountable.

- Other Goals: Respondents to the court survey did not reach such high levels of agreement on the importance they attached to the 11 other goals they were asked to evaluate.
 - *Deterrence:* Two other goals rated extremely important by a majority of respondents were deterring recidivism (68%) and penalizing noncompliant offenders (60%).
 - *Rehabilitation:* Only about a quarter of all respondents (27%) identified rehabilitating offenders as extremely important, but on further inspection, it appears that the large number of domestic violence courts in New York State were responsible for this low ranking: More than half of the courts outside New York State (53%) deemed this goal extremely important but only 19% of New York’s courts did so.
 - *Administration of Justice:* A factor analysis revealed a distinct cluster of goals having to do with the *administration of justice* – efficiency of case processing, consistency of dispositions and sentences cases, and correct application of statutes; a majority of respondents rated this set of goals either very or extremely important.

2. Victim Services and Safety

- Victim Advocacy: Dedicated victim advocates worked at or in conjunction with 79% of the domestic violence courts. The presence of victim advocates was significantly associated with prioritizing the goal of “facilitating victim access to services.”
- Advocacy Services: In the prosecutor survey, court-based victim advocates (many of whom are employed by the prosecutor’s office) were described as providing a range of services that include accompanying victims to court (80%), safety planning (79%), explaining the criminal justice process (79%), providing housing referrals (73%), facilitating prosecution (64%), and counseling (56%). The data showed that the advocates working for the prosecutors’ offices place a higher priority on trying to gain victims’ cooperation with prosecution, whereas those working for private agencies emphasize prosecution less often and see their role as helping the victim achieve her goals, whether or not they involve prosecution of her abuser.
- Orders of Protection: The vast majority of surveyed courts (88%) reported either that they issue a temporary order of protection or restraining order at first appearance in the domestic violence court or that such an order has already been issued before defendants reach the specialized court. At sentencing, 82% of courts reported that they often or always impose a final order of protection prohibiting or limiting contact with the victim. California’s courts were especially likely to report imposing final protection orders.
- Courthouse Safety: Qualitative data revealed that stakeholders consider the physical safety of victims who are attending court to be a major concern. Survey results showed that courts do not consistently provide safety measures, however: 60% do not provide separate seating areas in the court; 50% do not provide escorts in the courthouse; 40% lack separate waiting areas in the courthouse; and 76% do not provide childcare. Court staff reported a desire to offer these accommodations but a lack of resources.

3. Offender Assessments and Programs

- Assessments: Offender assessments were not conducted by the majority of courts. They were usually conducted by prosecution staff, probation, or the staff of batterer programs or other outside programs. Just less than half the court survey respondents (45%) reported that assessments were conducted often or always, and another 11% reported that they were conducted sometimes. The most common types of assessments conducted in conjunction with domestic violence courts were for drug and alcohol dependence (51%) and mental health issues (49%). Some courts also assess the offender's history of victimization (26%), background characteristics (40%), risk of repeat violence (40%) and service needs (34%).
- Batterer Programs: All courts reported using batterer programs in at least some cases, but with widely varying frequency. Batterer program mandates were the primary response to domestic violence offenses by 34% of courts responding to the survey, which reported ordering 75% to 100% of offenders to a batterer program. More courts infrequently mandate batterer programs: 44% reported ordering less than a quarter of the offenders to such programs. Courts rating offender rehabilitation as an extremely important goal were especially likely to report sentencing offenders to batterer programs, as were domestic violence courts located in the state of California (presumably because of California's statutes governing the sentencing of domestic violence offenders).
- Other Programs: Orders to attend other types of programs appeared to be as prevalent as orders to batterer programs. Nearly all surveyed courts reported that they order offenders to alcohol or substance abuse treatment (94%) or mental health treatment (86%) in at least some cases. Many courts also reported ordering domestic violence offenders to parenting classes (64%). We found that the use of other programs was independent of the use of batterer programs; that is, reported use of each other type of program neither increased nor decreased as a function of frequency of use of batterer programs.

4. Compliance Monitoring

- Probation Monitoring: Overall, more than half of the courts (62%) reported often or always ordering offenders to probation supervision. When probation is involved, extremely few courts (10%) indicated that they rarely or never receive compliance reports. Courts that rated offender accountability as an extremely important goal were especially likely to use probation, as were courts from states that have statutory sentencing requirements.¹ Independent of the relationship with state statutes, California's courts were also especially likely, and New York's courts especially unlikely, to report often or always sentencing offenders to probation.

¹ Survey respondents from 14 states indicated that their state laws impose mandatory sentences for at least some categories of domestic violence offenses, such as required minimum periods in custody, minimum probation terms, batterer programs, fines, community service, firearms relinquishment, or protection orders.

- **Judicial Monitoring:** Use of judicial monitoring or ongoing court review hearings varied, with 56% of courts reporting that they often or always mandate offenders to return to court post-disposition for monitoring and an additional 15% reporting they sometimes do so. The data also revealed variation in the frequency of judicial monitoring and the practices implemented at each judicial status hearing (e.g., reviewing program reports, restating responsibilities, praising compliance, or sanctioning noncompliance). Hence, the surveyed domestic violence courts have not arrived at a set of widely adopted or recommended monitoring practices. In general, domestic violence courts in California and New York were more likely than those in other states to use judicial monitoring.
- **Response to Noncompliance:** At judicial status hearings, 27% of courts reported that they always impose sanctions for noncompliance with court mandates and 50% reported that they often do so. The most common responses with failure to comply with mandates were the least punitive: verbal admonishment (83% often or always), immediate return to court (73%), and increased court appearances (59%). Less common were revoking or amending probation (37%) and jail (29%). The results point to a lack of consistency across courts. Respondents emphasizing the goals of accountability and penalizing noncompliance were especially likely to report imposing jail as a sanction.

5. Additional Themes

Among the themes noted below, many emerged in responses to open-ended survey questions and in interviews conducted across the 15 site visits:

- **General Appraisal:** Study participants expressed positive perceptions overall of their domestic violence courts, viewing them as successful and effective. (We report this finding as an indicator of high stakeholder satisfaction, recognizing that independent research would be necessary to confirm these perceptions.)
- **Collaboration:** Stakeholders did not universally report that they had established strong collaborations, but they generally emphasized that doing so was important. Those from domestic violence courts that had cultivated cooperative relationships (e.g., among the judiciary, prosecution, victim advocates, probation, and law enforcement), preferably beginning at the planning process, saw it as a key to their success, whereas those from courts that lacked such cooperation saw it as a significant obstacle to the court's goals.
- **Consistency:** Many stakeholders emphasized the importance of having a dedicated and experienced judge (as well as other dedicated and experience staff) to achieve a consistent and predictable approach to the adjudication of domestic violence cases.
- **Training:** More than 91% of the courts surveyed reported that their dedicated judges had received specialized training. Nonetheless, the need for training and retraining of judges and other team members (police, attorneys, and court personnel) on domestic violence dynamics and related legal issues was a recurrent theme in our qualitative data. Staff turnover was a related concern, connected with the need to maintain a team that is trained, sensitive, and invested in addressing the problem of domestic violence.

- Victim Outreach: Many stakeholders underlined the difficulty of involving victims in prosecution and the negative impact on the chances of conviction and appropriately severe sentencing. Prosecutors especially expressed that they often struggle to pursue cases because victims often want charges dropped. Some prosecutors' offices respond to this challenge by instituting "no-drop" policies, but state statutes can constrain their ability to pursue charges without victim testimony. How to handle prosecution when the victim opposes it or declines to participate can create tensions among prosecutors, victim advocacy agencies and the court. (Prosecutors did not perceive this obstacle, per se, as specific to domestic violence courts, but rather as an important general concern in domestic violence case prosecution.)
- Resources: Stakeholders expressed great concern about scarce resources. They variously articulated a need for increased funding for probation supervision, offender programming, and victim services. Several stakeholders also expressed regret that understaffing and swelling caseloads precluded effective judicial monitoring. In places where stakeholders felt that their court was successful, they attributed the success to having adequate resources for intensive supervision of domestic violence offenders, services for victims by multiple agencies, and programs for offenders.

Conclusions

The number of specialized domestic violence courts is continuing to grow nationwide. We identified 208 courts that have specialized dockets or dedicated judges, an increase of more than 150 courts since the last national study a decade ago identified only 42 domestic violence courts (Keilitz 2000). Specialized domestic violence courts can be found in 32 states across the Northeast, South, Midwest, and West, as well as in the territory of Guam. It is notable, however, that California and New York account for nearly half the total (46%).

We found consensus among court stakeholders with respect to the primary rationales for creating a domestic violence court: increased victim safety, offender accountability, and deterring of future violence. Qualitative data, however, revealed differing expectations of which policies and practices would achieve these aspirations. Moreover, we found substantial divergence in the importance assigned to other goals, such as fostering judicial expertise, correctly applying state statutes, and achieving a coordinated response to domestic violence. We also found diversity in the structure of today's domestic violence courts and in the practices adopted across many domains. These domains included the availability of victim services and safety measures (such as safe spaces and escorts in the court), the use of offender assessments and programs, and practices related to offender accountability (such as sanctions for noncompliant offenders).

These findings highlight an important distinction between domestic violence courts and other problem-solving models, particularly drug and mental health courts, which have a more clearly delineated structure and widely shared set of core goals, policies, and practices. We hope that these results constitute a useful first step in stimulating the field to engage in greater information exchange and collaboration, perhaps leading to the development of a more consistent set of policies and practices, or at least fostering greater mutual understanding of the alternative goals, policies, and models that exist today.

Chapter 1

Introduction

Over the past three decades, a variety of legal responses to domestic violence have been adopted, including mandatory arrest policies, specialized prosecution units, and courts dedicated to providing civil orders of protection. Simultaneously, victim advocates have developed shelters, programs, and community interventions with the dual goals of protecting victims and decreasing abuse by perpetrators of domestic violence.

Specialized criminal domestic violence courts, informed by both the legal reforms and advocacy movements, have grown rapidly since the late 1990s. For the purposes of this study, criminal domestic violence courts were defined as those hearing criminal domestic violence cases on a separate calendar or by a dedicated judge or judicial officer. Our survey identified 129 criminal domestic violence courts currently operating in the United States. Subsequent research conducted to construct our national compendium suggests the actual number exceeds 200 (Center for Court Innovation 2009). There is substantial geographic concentration of domestic violence courts in six states that account for more than half the national total: California, New York, Washington, Florida, Michigan, and Alabama. One or more domestic violence courts were identified in 35 other states. Other countries have also established domestic violence courts: there are more than 50 in Canada (Quann 2007) and nearly 100 in England (Crown Prosecution Service 2008).

The purpose of this study, funded by the National Institute of Justice, was to produce a portrait of these courts, exploring why they were created, how they work, and how they vary. This study was not an impact evaluation; we did not test whether domestic violence courts reduce recidivism, protect victims, or achieve other quantifiable outcomes, although we did review the literature on these points. Rather, our primary aim was to produce a description of the courts in an effort to identify best practices and inform future research.

Multiple Goals and Origins

In previous research, those establishing domestic violence courts have reported a variety of reasons for doing so, ranging from fundamental concerns with the adjudication process, such as processing cases expeditiously, to concerns with extra-legal outcomes, such as increasing victim safety (Gavin and Puffett 2007; Keilitz 2001). The following list identifies goals and motives for creating domestic violence courts identified through visits to 15 domestic violence courts for the present study and review of previous studies.

- Correct application of statutory requirements: Consistent application of legally appropriate procedures and sentences, especially in states with domestic violence statutes that require courts to process and sentence cases in particular ways distinct from other criminal cases.

- Efficient case processing: Effective management of domestic violence caseloads, including efficient and timely screening and processing to disposition.
- Informed decision making: Assignment and training of dedicated judges and other staff who develop expertise in the dynamics of domestic violence and related legal issues.
- Coordinated response: Participation of the court in a network of criminal justice agencies, victim service organizations, and offender program providers working collaboratively to share information and create effective policies.
- Victim safety and services: Assistance to victims such as court accompaniment, crisis intervention, shelter referral, and other services.
- Offender accountability: Adjudication and sentencing to hold domestic violence offenders responsible for their criminal behavior and convey that domestic violence is unacceptable.
- Reduced recidivism: A decrease in future domestic violence as a result of effective case handling, through *rehabilitation* (changing offenders' beliefs and attitudes) or *deterrence* (increasing the perceived consequences of re-offending).

The multiplicity of goals of domestic violence court is a natural consequence of their disparate origins. As early as the 1970s, the feminist and battered women's movements began to reshape many aspects of the criminal justice response to domestic violence. Activists promoted the recognition of domestic violence not as a private matter but as a crime, spawning the passage of federal and state laws requiring consistent enforcement and greater attention to the safety of abused women (Horowitz 2003; Schechter 1982). Pro-arrest policies, evidence-based prosecution, and specialized police and prosecution units all emerged as a result (Rebovich 1996; Sherman 1992). Change accelerated with the passage of the Violence Against Women Act in 1994, which established federal pro-arrest laws and funding mechanisms for victim services and other innovations (Buzawa and Buzawa 1996; Hanna 1996).

These reforms led to a massive influx of domestic violence cases into criminal courts nationwide (Ostrom and Kauder 1999). Whether to provide a more intensive focus on the unique problems posed by domestic violence cases, to enforce new domestic violence laws with a consistent approach, or to cope more efficiently with the ballooning case volume, the results provided a number of reasons to handle domestic violence cases in a specialized courtroom.

The 1990s and early 2000s, jurisdictions began to create *specialized* courts to handle cases that share a common underlying problem. Generally known as "problem-solving courts" (or "collaborative justice courts" in California), more than 3,000 have been established nationwide, including drug courts, mental health courts, community courts, and domestic violence courts (Huddleston, Marlowe, and Casebolt 2008). Each model tackles a different set of issues, from drug addiction to mental illness to community disorganization, but they all seek improved outcomes for defendants, litigants, victims, and communities (Berman and Feinblatt 2005; Casey and Rottman 2005) by addressing the underlying issue that led the offender to commit the crime.

Most problem-solving courts also share a number of common practices, such as referral to community-based programs, ongoing compliance monitoring, and collaboration among multiple justice and community partners (Farole et al. 2005; Wolf 2007). To provide centralized oversight spanning the different models, more than a dozen states have established a statewide problem-solving court coordinator.

Even though they emerged concurrently with the broader problem-solving court movement, domestic violence courts do not reflect all the movement's principles and practices as just summarized. Most problem-solving courts focus on victimless crimes. Drug and mental health courts, for instance, deal with nonviolent offenses and can focus their attention on the defendant. In domestic violence cases, not only is there a victim but also the same victim is at ongoing risk of being assaulted by the same offender. Domestic violence courts have a responsibility to the victim, and often provide services for them in addition to addressing the criminal behavior of the defendant. At the same time, victim advocates have argued that the criminal justice system has not treated assaults by intimate partners as seriously as similar crimes committed against strangers or acquaintances.

Perhaps more critically, most problem-solving court models operate under the assumption that the defendant's criminal behavior stems from underlying problems that treatment or services can resolve. Although many if not most domestic violence courts subscribe to this analysis as well, the premise is controversial in regard to domestic violence offenders. Many agencies that work with victims of domestic violence argue that the underlying problem is not an aberration or treatable illness of individual offenders but of societal values. Furthermore, among researchers, there is considerable doubt over whether court-mandated programs can succeed at rehabilitation in this area (Babcock, Green, and Robie 2004; Feder and Wilson 2005; Rempel 2009; and others).

In some states, statutes and policies have influenced the planning and operations of domestic violence courts. For example, California, Florida, and North Carolina have statutes specifying mandatory sentences and monitoring requirements for those convicted of domestic violence crimes. In these states, domestic violence courts may be seen as a logical mechanism to promote the proper execution of statutes, such as mandatory sentences to probation and batterer programs. In other states that allow greater discretion in charging and sentencing, domestic violence court models may be more variable and depend on the goals and resources of the individual court.

For all of the above reasons, domestic violence courts reflect neither unified origins nor a unified approach, but they do share common goals. Domestic violence courts also lack a single information clearinghouse as exists with drug courts (National Association of Drug Court Professionals), leading many such courts to reflect specific local or statewide approaches. Thus, a comprehensive list of the country's domestic violence courts did not exist until its collection as part of this study, an undertaking that was fraught with difficulties, described in chapter 3. It remains to be seen whether such a list will be routinely updated and whether cross-fertilization among domestic violence courts will become the norm.

About This Study

We sought to map the contemporary landscape of criminal domestic violence courts. By doing so, we hoped to lay the groundwork for future information exchange, training, and cross-site mentoring. Such efforts may facilitate domestic violence court staff learning from each other, increase consistency within and across jurisdictions, and encourage the dissemination of promising practices.

The study proceeded as follows. First, we produced a working compendium of criminal domestic violence courts nationwide. This list was compiled through primary research to identify as many potential domestic violence courts as possible. Those confirmed to be domestic violence courts, along with court names and addresses, was released in a separate document (Center for Court Innovation 2009). The purpose of the compendium is twofold: first, it aided in constructing the survey sample; second, we hope the compendium will serve as a resource for domestic violence courts to cross-pollinate ideas and practices with other courts in their region.² Second, we conducted site visits to 15 domestic violence courts in five states, including in-depth interviews with a wide range of professionals who work in or with the court and structured observations of the court operations. From these site visits, we identified common themes and critical issues influencing court practices and used this information to construct a national survey. Third, two surveys were developed and sent to the court and to prosecutors, because prosecutors often assume a critical role in the establishment of domestic violence courts (Gavin and Puffett 2007). Finally, we conducted follow-up telephone interviews with select sites to probe and clarify survey responses. Our analyses incorporated all data sources to reveal the current state of the field.

² The protection of respondent confidentiality prohibits including contact information for specific individuals in the compendium or linking specific courts with any of the reported policies in this study. Readers who are interested in a particular policy or practice discussed in this report are invited to contact Samantha Moore, Manager, Domestic Violence and Family Court Programs, at the Center for Court Innovation (smoore@courts.state.ny.us).

Chapter 2

The Impact of Domestic Violence Courts

This chapter explores the research literature to date on domestic violence courts. Ultimately, the goal of studying domestic violence courts is to develop an understanding of the most effective practices; however, we are not in a position to develop best practice models if we do not know the variations in how the courts operate, the contextual factors that influence their structures and procedures, and the full range of policies, practices, and goals. In this chapter, we will first review previous literature on the origin, development, and features of specialized adjudication of domestic violence cases. We will also briefly review the impact evaluations which are, by necessity, small scale and site specific.

Domestic Violence Courts Today

Variations in Definitions of Domestic Violence Courts

One important distinction among domestic violence courts is that some are criminal courts and some are civil courts. Several states, however, including New York and Florida, are experimenting with “integrated” domestic violence courts that combine civil and criminal functions so that a single court can hear both types of cases involving the same defendant or family members (Goldkamp et al. 1996; Sack 2002; Steketee, Levey, and Keilitz 2000). Because this study focused on criminal courts, we will review here only the literature on criminal and integrated domestic violence courts.

Cases heard in domestic violence courts are obviously limited by the relationship between the victim and offender. How broadly or narrowly the qualifying relationship is defined varies, however. Some criminal domestic violence courts hear only cases involving crimes committed against current and former intimate partners, whereas other courts hear cases involving crimes against any family member (Sack 2002).

Also, jurisdictions vary in the stage of case processing at which cases are heard in a domestic violence court. In some jurisdictions the specialized approach occurs only at the pretrial conference (Helling 2003). Some domestic violence courts pick up cases after the initial court appearance, e.g., subsequent to arraignment or bond hearing, but others hear cases from arraignment through disposition. Depending on the volume of cases and resources, domestic violence courts may operate full time, while others have a more limited calendar, meeting a few times per week or on alternating weeks. Similarly determined by volume and resources, some jurisdictions have a single specialized judge and domestic violence calendar, whereas others have multiple judges and calendars. In the latter situation, the different domestic violence parts may be able to specialize by phase of adjudication, such that cases in the pretrial phase appear on one calendar and those appearing for compliance monitoring on another.

History and Evolution of Domestic Violence Courts

In 2000, the National Center for State Courts surveyed 160 courts that seemed to have implemented some type of specialized case management for domestic violence cases. These practices ranged from a specialized intake unit dedicated to domestic violence cases or defined set of policies and practices for monitoring compliance among domestic violence offenders to a full specialized court with a dedicated judge and calendar (Keilitz 2001; Steketee et al. 2000). Of the 103 responding courts, 42 indicated that they had in fact established a criminal domestic violence court. This survey provided the first source of information on domestic violence court policies. It revealed consensus in regard to the goals of assisting victims, enhancing victim safety, and increasing defendant accountability but great diversity with regard to court practice and structure. Keilitz (2001) suggested that many of the courts lacked the supporting practices and service linkages necessary to achieve their goals.

Most of the courts reported having specialized mechanisms in place for handling domestic violence cases, such as case screening and identification, intake units, and court-ordered batterer programs or, as mentioned above, dedicated calendars and judges. Few courts, however, reported using all of these practices together, and Keilitz was unable to detect a common configuration or strategy for the application of these practices. Keilitz concluded that “the concept of a domestic violence court is not yet well developed or defined among the court community” (2001: 14).

This conclusion was reinforced in Shelton’s 2007 report that attempted to update Keilitz’s catalog of specialized courts within the United States. Using the internet, Shelton identified what were believed to be 51 additional domestic violence courts. Shelton confirmed Keilitz’s impression that domestic violence courts continued to be developed in a “piecemeal fashion” and speculated that “the crucial infusion of federal funds for the establishment of such courts was done in a way that resulted in the development of alternative models in various locales” (2007: 21-22).

Goals and Outcome Assessments

Since domestic violence courts lack a common vision or set of practices, it is not surprising that attempts to assess the impact of domestic violence courts have different findings. Approximately a dozen studies have tested the impact of domestic violence courts on overlapping outcomes. The following discussion reviews the findings related to court efficiency, interagency coordination, informed decision making, victim services, offender accountability, and recidivism. Identifying these themes in the literature helped us to structure our inquiry about goals, obstacles, and practices in our national survey of domestic violence courts.

Court Efficiency

As described in chapter 1, the exponentially increasing volume of cases involving violence against intimate partners was a substantial motivation for organizing criminal domestic violence courts in many jurisdictions. For example, at least one domestic violence court in Milwaukee was created expressly to increase efficiency and was found to be successful in this regard (Davis, Smith, and Rabbitt 2001). Studies of misdemeanor domestic violence courts in Manhattan,

Minneapolis, and San Diego confirm that these courts reduced the time from case filing to disposition (Angene 2000; Eckberg and Podkpacz 2002; Peterson 2004).

Another goal of domestic violence courts is simply to pay more attention to intimate partner violence and to enhance victim safety (Mazur and Aldrich 2002). This goal can conflict with the goal of efficiency. Accordingly, a study of a *felony* domestic violence court in Brooklyn found that case processing time increased after the specialized court opened (Newmark et al. 2001). With a single evaluation of a dedicated felony court, it is premature to generalize, but one might hypothesize that, in more serious cases, a specialized court may allow allocation of more time and resources to each case rather than expediting case processing.

Coordinated Response

A “coordinated community response” is a widely adopted formulation of what is needed to end domestic violence, rather than isolated efforts by victim advocacy organizations, prevention programs, child welfare agencies, law enforcement, courts and other organizations that may encounter victims and offenders (Pence and Shepard 1999). A coordinated criminal justice response is an essential component. A domestic violence court is both dependent upon and facilitates interagency coordination around the goals of victim safety and offender accountability. Because domestic violence court goals include aims related to both victims and offenders, coordination typically goes beyond law enforcement, prosecutors, and probation departments to include independent victim service organizations, batterer programs, and other service providers (Harrell et al. 2007; Henning and Klesges 1999; Mazur and Aldrich 2002; Newmark et al. 2001).

Coordination among these partners in the response to domestic violence often begins during the process of planning a domestic violence court (Eckberg and Podkpacz 2002; Steketee et al. 2000). Planning teams may evolve into a steering committee or other stakeholder group that meets regularly after the domestic violence court opens (Harrell et al. 2007; Henning and Klesges 1999; Newmark et al. 2001). Meetings may be held with regularity and can focus on troubleshooting problems that emerge, developing policies, assessing needs, and sharing information about programs and initiatives of the different agencies that can have an impact on the court or other partners (Harrell et al. 2007; Macleod and Weber 2000; Newmark et al. 2001; Sack 2002; Tsai 2000). Several process evaluations suggest that interagency coordination facilitates the linking of victims to services, information sharing by probation and community-based programs with judges, the development of better evidence for the prosecution, and increased stakeholder confidence (Gover 2007; Harrell et al. 2007; Henning and Klesges 1999; Newmark et al. 2001; Weber 2000).

Dedicated Staff and Informed Decision Making

According to one study, a benefit of a specialized court with a dedicated judge is that the judge becomes more familiar with the parties and facts of the case (MacLeod and Weber 2000). Court staff, prosecutors, defense attorney and agencies that deal with batterers and victims of domestic violence observe that these cases pose unique challenges and require special knowledge and expertise. In interviews, stakeholders have noted that judicial decisions in domestic violence may be improved through training and intensive experience (Henning and Klesges 1999; Steketee et al. 2000).

Besides the judge, some domestic violence courts are staffed by project or resource coordinators, victim advocates, and specialized or dedicated probation officers and prosecutors (Keilitz 2000; Peterson 2004; Sack 2002). Among other functions, these partners may facilitate the sharing of case information, a task that is more challenging when domestic violence cases are spread throughout the courthouse across many calendars rather than allocated to a dedicated court. A number of descriptive studies suggest that the use of dedicated staff members may enhance the understanding of unique issues in cases among attorneys, probation officers, and service providers, improving the quality of their decisions and their interactions with or support of the court (Keilitz 2001; Steketee et al. 2000; MacLeod and Weber 2000).

Victim Services

Many domestic violence courts place advocates from victim service agencies or victim/witness counselors employed by the prosecutor's office in the courthouse or directly in the domestic violence court. Typically, advocates offer victims support throughout court proceedings, including court accompaniment, assistance with safety planning, linkage to other community resources, and legal information and case updates (Bell and Goodman 2001; Gover 2007; Newmark et al. 2001). With victim consent, advocates may inform the prosecutor or court of any violations of court orders that involve the victim. Some courts also expect that the provision of services will encourage victim participation in the prosecution (Smith 2001).

A domestic violence court may advance the goal of victim safety to the extent that a specialized court makes it easier for advocates to connect with victims. The literature to date confirms this outcome (Harrell et al. 2007; Henning and Klesges 1999; Newmark et al. 2001). For instance, the percent of victims linked to advocates rose from 55% to 100% after the Brooklyn felony domestic violence court opened (Newmark et al. 2001) and from almost none to 56% after the Shelby (TN) domestic violence court opened (Henning and Klesges 1999).

Researchers have investigated victims' perceptions of the fairness of case processing in domestic violence courts as compared to general criminal courts. The assumption has been that victims who are more satisfied with how the case is handled will be more cooperative with prosecution and more willing to use the criminal justice system if the defendant assaults them again. Of the five studies that have looked at this issue, four found that victims were more satisfied with the process in a domestic violence court than in a non-specialized court (Eckberg and Podkopacz 2002; Gover 2007; Gover, MacDonald, and Alpert 2003; Hotaling and Buzawa 2003; for the one study that did not find this reaction, see Davis et al. 2001). In particular, victims felt that they were treated fairly (Eckberg 2002; Harrell et al. 2007; Henning and Klesges 1999) and that the judge cared about and understood the victim's situation (Eckberg 2002; Harrell et al. 2007). They were also satisfied with the assistance received from victim advocates (Harrell et al. 2007; Hotaling and Buzawa 2003). Nonetheless, one study within reported that 40% of victims still found the court experience embarrassing and indicated that they would not return to court if they experienced another incident of domestic violence (Hotaling and Buzawa 2003). Furthermore, the more positive perceptions of the court process did not necessarily translate into a sense of increased safety (Visher et al. 2008). The researchers attributed this reaction to substantial unmet needs (e.g., for employment, supportive social networks, and intensive crisis services) that exceeded the assistance that victim advocates working with the domestic violence court could provide.

Offender Accountability

In theory, offender accountability can be defined simply as holding perpetrators responsible for their actions. In practice, accountability is a complex concept with many potential implications. It might entail the prosecution of a higher percentage of domestic violence arrests and a higher conviction rate. On these types of measures, the literature is mixed. Three studies linked the implementation of specialized domestic violence courts to increased conviction rates (Goldkamp et al. 1996; Davis et al. 2001; Eckberg and Podkopacz 2002), whereas three other studies found no significant relationship to conviction rates (Angene 2000; Newmark 2001; Peterson 2004).

Post-conviction, accountability can be taken to entail more severe sentences such as jail or prison. In jurisdictions that do not have mandatory sentencing laws, different domestic violence courts have been associated with both a greater (Ursel and Brickey 1996, Quann 2007; Visher et al. 2008) and a lesser (Davis et al. 2001; Peterson 2004) use of jail sentences than traditional courts. Across multiple studies, there is widespread agreement that domestic violence courts lead to an increased use of batterer programs, substance abuse treatment, and other programs, as well as increased special bail conditions, drug testing, intensive probation, and judicial status hearings (Angene 2000; Gondolf 1998; Harrell et al. 2007; Newmark et al. 2001).

Another definition of accountability is the imposition of swift and certain sanctions in response to noncompliance with program mandates, probation, or other sentencing conditions (Frank 2006; Harrell et al. 2007; Labriola et al. 2007; Mazur and Aldrich 2002). Recently, domestic violence courts have become more involved in this form of accountability through greater use of compliance review hearings, a practice studied in the Judicial Oversight Demonstration Project (Harrell et al. 2007). In addition to the “Judicial Oversight Demonstration” in Ann Arbor, Dorchester, and Milwaukee, studies of the Brooklyn and San Diego domestic violence courts confirmed that judicial monitoring significantly increased the likelihood and severity of penalties for noncompliance with sentencing conditions (Angene 2000; Harrell et al. 2006; Harrell et al. 2007; Newmark et al. 2001).

Intensive probation monitoring through a special domestic violence unit has sometimes accompanied the development of a domestic violence court, although such units have also been adopted in the absence of a specialized court. Both the Judicial Oversight Demonstration Project and a study in Rhode Island by Klein and Crowe (2008) found a decreased rate of new offenses, with Harrell et al. (2006) attributing it to incarceration and incapacitation when probation was revoked, and Klein and Crowe attributing it to secondary prevention through frequent contacts with victims and offenders.

Recidivism

A central goal of the domestic violence courts and a component of victim safety is to reduce recidivism. To our knowledge, 10 domestic violence courts have been evaluated utilizing quasi-experimental methods. Findings were that three produced significant reductions in re-arrests on most measures (Angene 2000; Gover et al. 2003; Harrell et al. 2007), five produced no reductions or increases in recidivism (Harrell et al. 2007; Henning and Kesges 1999; Newmark

et al. 2001; Peterson 2004; Quann 2007), and two separate studies of Milwaukee domestic violence courts yielded mixed results.³

A reduction in recidivism could be a result of therapeutic treatment or deterrence mechanisms. The most recent reviews conclude that batterer programs, the primary treatment mechanism used by domestic violence courts, produce no or extremely modest effects (e.g., Babcock et al. 2004; Bennett and Williams 2004; Feder and Wilson 2005; Peterson 2008). Domestic violence courts might still reduce recidivism through the deterrent effects of increased monitoring and consequences for noncompliance, however. Few studies have been conducted regarding the effectiveness of these mechanisms, and even fewer have used an experimental or rigorous quasi-experimental design. A quasi-experiment conducted in the Bronx found no significant difference in re-offending rates between offenders who were mandated to judicial monitoring and those who were not (Rempel, Labriola, and Davis 2008). The authors noted, however, that the Bronx court did not implement a strong form of judicial monitoring, that court appearances were monthly at most, that judicial interactions with the offenders were neither clear nor probing, and that sanctions were not consistently imposed for noncompliance. They interpret the findings to indicate that mere “surveillance” does not appear to reduce recidivism, leaving open the question of whether a truly rigorous form of judicial supervision might have positive effects.

Summary

The principal aim of this study is to provide an accurate portrait of today’s domestic violence courts, describing what they are doing as opposed to whether they are working. Four previous efforts, two with a national scope, found that domestic violence courts are diverse, embodying an array of priorities, policies, and practices (Keilitz 2001; MacLeod and Weber 2000; Puffett and Gavin 2007; Shelton 2007). These studies found that the number of domestic violence courts doubled in six years. Perhaps precisely because of the diversity and newness, previous studies that have sought to measure their impact—on case processing, sentencing, recidivism, and other outcomes—have not always yielded consistent findings.

The literature does suggest that domestic violence courts expedite processing of misdemeanor cases. Findings suggest that victims are more satisfied and more likely to access services if a case is heard in a domestic violence court rather than a traditional court. These courts also appear to make greater use than non-specialized courts of several potential accountability mechanisms: program mandates, judicial monitoring, intensive probation, and penalties for noncompliance with court orders to programs. Yet, only a handful of studies have rigorously examined any of these features of domestic violence courts.

Because the domestic violence court intervention itself varies from site to site, it is premature to focus on outcomes generically (e.g., for recidivism). Before we can ascertain which specific

³ The first such study yielded positive raw differences in re-arrest rates and victim reports of re-abuse, but the effect sizes were small and not statistically significant (Davis et al. 2001). In the second, Harrell et al. (2006) found that the domestic violence court reduced the one-year re-arrest rate; but this reduction occurred not because the offenders were less likely to commit new crimes when “at risk” (i.e., living in the community), but because the offenders were more likely to be re-incarcerated on probation revocations. This is essentially a positive impact of the domestic violence court, but qualified in that the impact depended solely upon enforcement.

policies and practices produce such reductions and which do not, we need to know much more about how the courts operate and about the variations in how common policies are implemented. Our focus here, therefore, is not on whether domestic violence courts achieve specific goals, but on how, why, and in what context their operations are likely to vary as a necessary preliminary step before we can examine their effects.

Chapter 3

Research Design

This study was designed to provide a comprehensive portrait of criminal domestic violence courts nationwide. The study explores court goals, policies, and practices, as well as the knowledge, beliefs, practical resources, and constraints underlying these practices. Criminal domestic violence courts were defined as courts with a separate calendar or one or more dedicated judges for handling domestic violence cases (misdemeanor, felony, or both). Criminal courts that exclusively issue civil protection orders were not included, but we did include “integrated” domestic violence courts that deal with both criminal and family matters. In these instances, we retained our focus on the handling of the criminal cases.

This delimitation is slightly different from previous comparable research (Shelton 2007; Keilitz 2000; Macleod and Weber 2000). The prior studies included civil order of protection courts and/or general jurisdiction criminal courts that had court-wide policies for issuing orders of protection in domestic violence cases or a prosecutor’s office that had a specialized domestic violence unit. Our rationale was that there is a need to investigate the trend of establishing *specialized criminal courts* (see chapter 1). We were interested in determining how many of these courts have been established nationwide, why different stakeholders believe that a specialized approach to domestic violence cases is necessary or helpful, and what policies have been implemented in connection with this structural development.

Mixed Methods Design

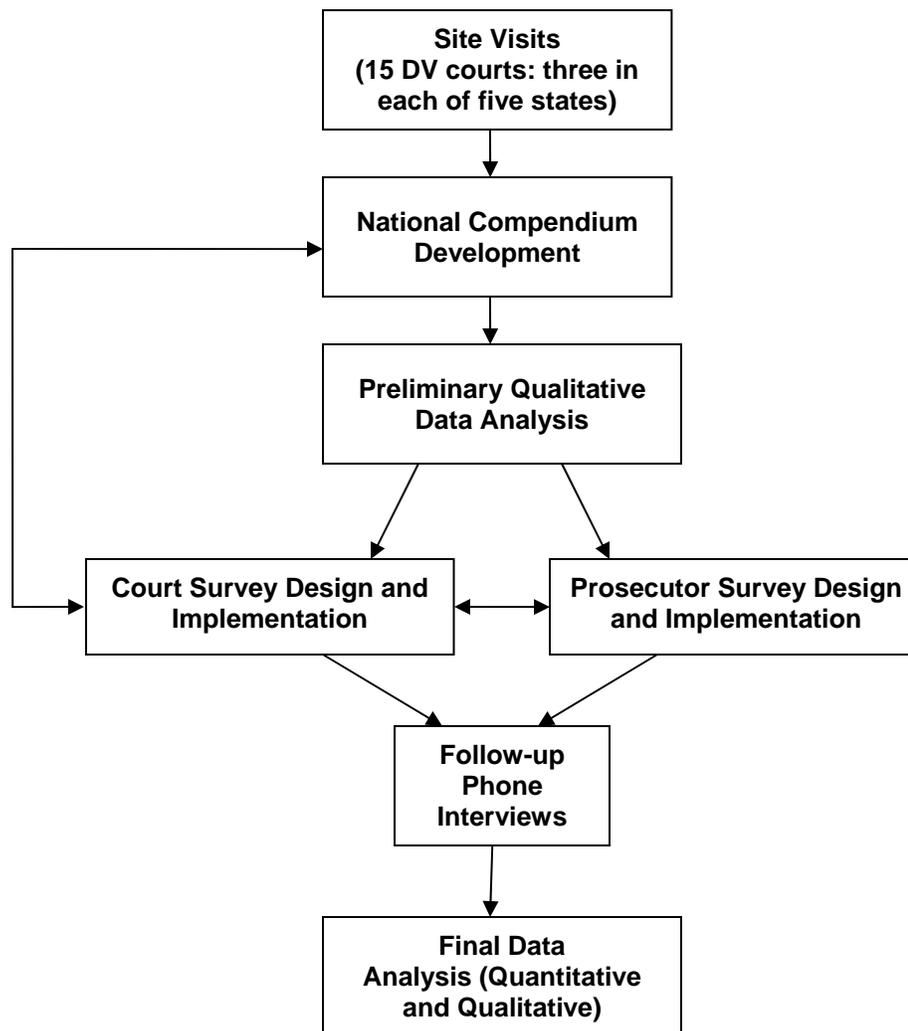
Mixed method designs have the capacity to provide both scope (quantitative) and depth (qualitative). Data collection unfolded in four phases: in-depth site visits with a purposeful sample of established courts, development of a national compendium of domestic violence courts, a survey of domestic violence courts and connected prosecutor offices, and follow-up telephone interviews with select courts. The results at each step informed data collection in the next. In the case of the compendium and construction of the court and prosecutor surveys, the strategies overlapped and formed a reiterative process (see figure 3.1).

Site Visits

Sampling Frame

The study began with visits to 15 domestic violence courts, three in each of five states. The site visit sample was developed through the purposive recruitment of well established courts. The sites were selected according to five criteria: (1) representation of four regions of the US (Northeast, Midwest, South, West), (2) willingness of court staff to facilitate multiple stakeholder interviews and courtroom observation, (3) length of time the court had been in operation, (4) state context (i.e., states with a statewide effort to establish domestic violence courts were preferred), and (5) variation in court policies.

Figure 3.1. Multi-Phase Research Design



Our selection criteria yielded a small pool of potential sites. New York and California were the first two states selected, partly due to preexisting contacts with the research team, but primarily because they were already known to have the largest number of criminal domestic violence courts. The sample also included three courts each in Illinois, Florida, and Washington State. Specific courts were selected with assistance from a statewide coordinator or key informants from each state’s court system keeping under consideration of our interest in a sample that would include diverse domestic violence court models and practices. It should be noted that observations from the site visits reflect a snapshot of the courts at the time of data collection, and that both the daily practices as well as stated opinions of stakeholders at the courts may change over time.

Interview Protocols

We sought to interview as diverse range of stakeholders at each site. Prior to site visits, the research team established a point person at each site and attempted to schedule interviews with at least one representative of affiliated community-based agencies (e.g., victim assistance agencies or batterer program staff) or role within the justice system (e.g., judges, prosecutors, defense attorneys, and court staff). Our final sample included 123 interviews with nine types of stakeholders, as follows:

- Thirty-one prosecutors
- Twenty victim advocates
- Nineteen domestic violence court judges
- Thirteen defense attorneys
- Eleven administrators at nonprofit organizations working directly with the court
- Ten probation officers
- Eight batterer program representatives
- Eight court-based staff (project managers, resource coordinators, and clerks)
- Three police officers

In our interviews with domestic violence court judges and staff, we first asked for a walk through of a typical domestic violence case from eligibility screening through sentencing, followed by questions to elicit information across nine domains:

1. Court Background Information (history and organization)
2. Goals and Objectives
3. Predisposition Policies
4. Programs for Offenders
5. Defendant Compliance Monitoring
6. Victim Safety
7. Stakeholders and Partnerships
8. Training
9. Problems and Successes

In interviewing prosecutors, we followed a slightly modified protocol with the following added domains:

10. prosecutorial strategies,
11. case assessment,
12. victim involvement in prosecution, and
13. disposition and sentencing.

Other types of interviewees were asked to focus on background information, their personal role or the role of their organization in the domestic violence court, how working in the specialized court has affected their responsibilities, and perceived differences between addressing domestic violence in a general criminal court versus a domestic violence court. When appropriate, interview respondents were invited to discuss the goals and evolution of the court, the current cultural context of the court, and successes and challenges. Appendix A is our umbrella interview protocol, with the sections for specific stakeholders omitted.

Courtroom Observation Protocols

Courtroom observation protocols were adapted from previous studies conducted by members of the research team. These included protocols used in two studies of domestic violence courts (Cissner, Bradley, and Puffett 2009; Gavin and Puffett 2007) and a general approach to multisite courtroom observations that was developed for a nationwide study of adult drug courts in which one of the current principals is a partner (see National Institute of Justice 2009). The purpose was to collect firsthand data at each site regarding the following court characteristics:

- Number of cases appearing before a domestic violence court judge in a typical court day;
- Average length of individual appearances;
- Typical criminal charges of defendants appearing in the domestic violence court;
- Typical status of defendants who appeared (e.g., “in custody” or “not in custody”);
- Types of interactions between the judge and the defendant; and
- Most common dispositions, sentences, and responses to noncompliance.

One observation form was used to record key events for each court appearance that was observed, and a second form was used to report summary information (e.g., total number of cases) and general courtroom characteristics (e.g., existence of a separate waiting room, organization of the cases, and type of session observed—criminal or compliance).

Site Visit Implementation

Site visits were conducted between February and November 2007. Most visits involved two members of the research team traveling to the site for two to three days (two sites were visited by a single researcher) and conducting interviews and observations. Wherever possible, interviews were audiotaped. Detailed notes were taken. Teams recorded interviews and observation data in data sheets that could be used for analysis during later phases of the study. For detailed qualitative information, teams also completed a narrative that involved answering set questions about what was learned during the visit.

Domestic Violence Court Compendium

We sought to identify the names, locations, and contact information for all the criminal domestic violence courts. The compendium was developed as a product of the research in its own right,⁴ as well as a tool for developing the sample for the surveys. This effort began at the outset of the research period (January-July 2007) and continued concurrently with site visits and early survey development and distribution. Compendium development involved four strategies:

⁴ The final published compendium will include names and addresses of all courts that could be confirmed as domestic violence courts according to our definition (dedicated judge or separate calendar/docket) with the purpose of providing court practitioners with a national networking resource. The published compendium will include all survey respondents that confirmed they were domestic violence courts and exclude all those that responded they were not a domestic violence (see table 3.1.). It will also include all those that could be confirmed as domestic violence courts through follow-up contact with non-responding courts. The published compendium includes 208 courts in 32 states and the territory of Guam.

1. Previous Research: drawing on the list of courts identified in two previous studies (Keilitz 2001; Shelton 2007); we verified their current status and eliminated courts that did not meet our criteria (42 of the 103 respondents to Keilitz' survey met our criteria in 2001).
2. Administrative Court Offices in each state were contacted and asked to provide the names of and contact information for any domestic violence courts in their state.
3. State Domestic Violence Coalitions were contacted for any information regarding domestic violence courts in their state.
4. Internet research was used to identify eligible courts as well as to follow up on information received from the administrative court offices and domestic violence coalitions.

The final survey sample included 338 courts in 45 states. Table 3.1 below includes four columns displaying the following information from left to right: (1) total number of courts in the survey sample, (2) of those courts sampled, number that responded, (3) response rate as a percentage, and (4) percentage of *responding courts* that met our definition of a domestic violence court.

The compendium also included a list of prosecutors working in specialized domestic violence courts. Strategies for developing the prosecutor compendium differed slightly from those used to develop the list of courts. In particular, we postponed development of the prosecutor compendium until after sending out the first few waves of the court survey. Court survey respondents were asked to provide contact information for the prosecutor offices working with their court. This strategy yielded contact information for 128 of 129 courts that both responded to the court survey *and* confirmed that they operated a criminal domestic violence court according to our definition. This information was then supplemented by internet research and follow-up phone calls to prosecutors within the jurisdiction of the courts identified in the court compendium that did not respond to the survey. We also conducted calls to prosecutors within the jurisdictions of courts identified in the compendium that responded to the survey but reported *not being a domestic violence court* because they might have been working in a domestic violence court elsewhere. The final prosecutor survey included 275 prosecutors in 42 states (see table 3.2 below). Table 3.2. follows the same column format as described in Table 3.1.

